



# CITY OF DULUTH

Planning Division

411 W 1<sup>st</sup> St, Rm 208 \* Duluth, Minnesota 55802-1197  
Phone: 218/730.5580 Fax: 218/723-3559

## STAFF REPORT

|                             |                                     |                                 |   |                  |
|-----------------------------|-------------------------------------|---------------------------------|---|------------------|
| <b>File Number</b>          | PL 15-163                           | <b>Contact</b>                  | Jenn Reed Moses, jmoses@duluthmn.gov    |                  |
| <b>Application Type</b>     | Variance                            | <b>Planning Commission Date</b> | November 10, 2015                       |                  |
| <b>Deadline for Action</b>  | <b>Application Date</b>             | October 5, 2015                 | <b>60 Days</b>                          | December 4, 2015 |
|                             | <b>Date Extension Letter Mailed</b> | October 21, 2015                | <b>120 Days</b>                         | February 2, 2016 |
| <b>Location of Subject</b>  | 2223 S Lake Avenue                  |                                 |   |                  |
| <b>Applicant</b>            | Geoffrey A. Witrak                  | <b>Contact</b>                  | 218-428-7025, gwitrak@gmail.com         |                  |
| <b>Agent</b>                | Tim Belcastro                       | <b>Contact</b>                  | 218-393-3938, tim_belcastro@hotmail.com |                  |
| <b>Legal Description</b>    | PID #010-3100-00340                 |                                 |   |                  |
| <b>Site Visit Date</b>      | N/A                                 | <b>Sign Notice Date</b>         | October 27, 2015                        |                  |
| <b>Neighbor Letter Date</b> | October 23, 2015                    | <b>Number of Letters Sent</b>   | 26                                      |                  |

### Proposal

Applicant is requesting a variance to construct a kitchen addition and deck that would be 8'1" from the front property line instead of the required 25'.

|                | Current Zoning | Existing Land Use         | Future Land Use Map Designation |
|----------------|----------------|---------------------------|---------------------------------|
| <b>Subject</b> | R-1            | Single-family residential | Traditional Neighborhood        |
| <b>North</b>   | R-1            | Single-family residential | Traditional Neighborhood        |
| <b>South</b>   | R-1            | Single-family residential | Traditional Neighborhood        |
| <b>East</b>    | R-1            | Single-family residential | Traditional Neighborhood        |
| <b>West</b>    | R-1            | Beach/lake                | Preservation                    |

### Summary of Code Requirements (reference section with a brief description):

50-14.5 - Front yard setback in the R-1 district is 25 feet.

50-37.9.C - General variance criteria.

#. D-1

**Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):**

Future Land Use - Traditional Neighborhood: Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home businesses. Parks and open space areas are scattered through or adjacent to the neighborhood.

**Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):**

Staff finds that:

- 1.) Applicant is proposing a kitchen addition that would bring the front of the house 15'10" from the front property line, instead of the required 25' setback. Applicant is also proposing a new deck that would be 8'1" from the front property line. The UDC does allow open, uncovered decks to encroach up to 10' into the front yard setback, but as this deck would encroach further, both the deck and kitchen addition would require a variance.
- 2.) Use of the property as a single-family house is reasonable in the R-1 district. Although the lot does have a unique shape in order to provide access to Minnesota Avenue, it is a large lot with a large buildable area, and no unique circumstances (such as excessive slope, bedrock, wetlands, etc.) exist with topographical or other physical constraints related to the property.
- 3.) Based on existing floor plans submitted by the applicant, Staff estimates existing kitchen to be 10' x 10'; it is a U-shaped kitchen characteristic of modern house layouts and is open to a sizeable dining area. It appears to have adequate space and layout to meet essential needs of a typical kitchen. Applicant would like to expand kitchen to approximately 15' x 18' and states they are requesting the addition for better functionality of the kitchen; Staff believes this constitutes a "convenience" under variance criteria. While generally supportive of upkeep and renovations to existing houses; Staff finds that desire for a larger kitchen does not constitute practical difficulty as defined by the UDC and state statute. Thus, Staff finds that the criteria requiring the variance to be necessary for enjoyment of a substantial property right is not met.
- 4.) The deck expansion is not needed for ingress or egress; existing decks provide access to doors and stairways. Staff also finds that the expanded deck is not needed for enjoyment of a substantial property right.
- 5.) Other houses in the immediate area are located on smaller lots and are built in line with the front property line. When this house was constructed on a larger lot and at an angle, it changed the character of the neighborhood. This expansion would continue this change to the essential character of the neighborhood.
- 6.) The house's location on the lot was not created by the property owner or applicant (house was constructed in 1973). Variance is not expected to impair an adequate supply of light and air to adjacent property.
- 7.) No public, agency, or City comments were received.
- 8.) Per UDC Section 50-37.1.N, approved variances lapse if the project or activity authorized by the permit or variance is not begun within 1 year.

**Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):**

Based on the above findings, Staff recommends that Planning Commission deny the variance to build a kitchen expansion and deck for the following reasons:

- 1.) The variance would serve "merely as a convenience" and is not necessary for enjoyment and preservation of a substantial property right.
- 2.) Conditions on the property do not result in zoning regulations placing a "practical difficulty" on the property.

**Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)**

D-2





# City Planning

PL 15-163

2223 S Lake Ave

## Legend

- Zoning Boundaries**
  - R-1
- Zoning Boundaries**
  - Water Distribution System
- Water Distribution System**
  - 30 - 60" Water Pipe
  - 16 - 24" Water Pipe
  - 4 - 6" Water Pipe
- Sanitary Sewer Collection System**
  - Sanitary Sewer Collector
  - Sanitary Sewer Interceptor
  - Sanitary Sewer Forced Main
- Storage Basin**
  - Pump Station
- Gas Distribution Main**
  - 8" - 16" Gas Pipes
  - 4" - 6" Gas Pipes
  - 0" - 4" Gas Pipes
- Storm Sewer Collection System**
  - Storm Sewer Pipe
  - Storm Sewer Catch Basin
- Right-of-Way Type**
  - Road or Alley ROW
  - Vacated ROW
- Easement Type**
  - Utility Easement
  - Other Easement
- Floodplain Type**
  - General Flood Plain
  - Flood Way
  - Flood Fringe

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.

D-3

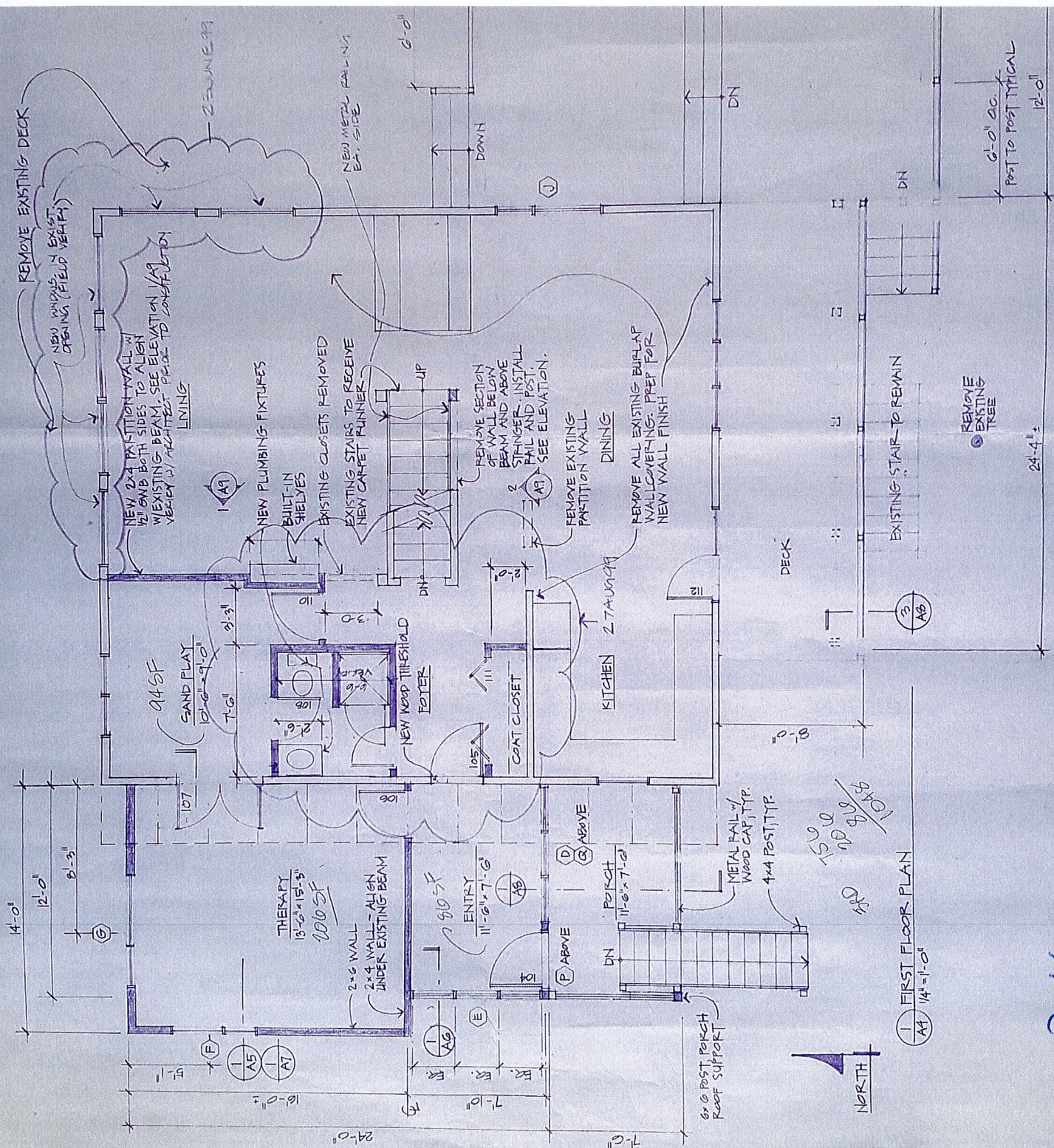


Aerial photography flown 2013

Prepared by: City of Duluth Planning Division, October 19, 2013, Source: City of Duluth.



EXISTING  
FLOOR  
PLAN



D-4



PROPOSED

SHEET NOTES

WITRAK  
RESIDENCE  
2223 SOUTH LAKE AVE  
DALLUTH, MN 55802

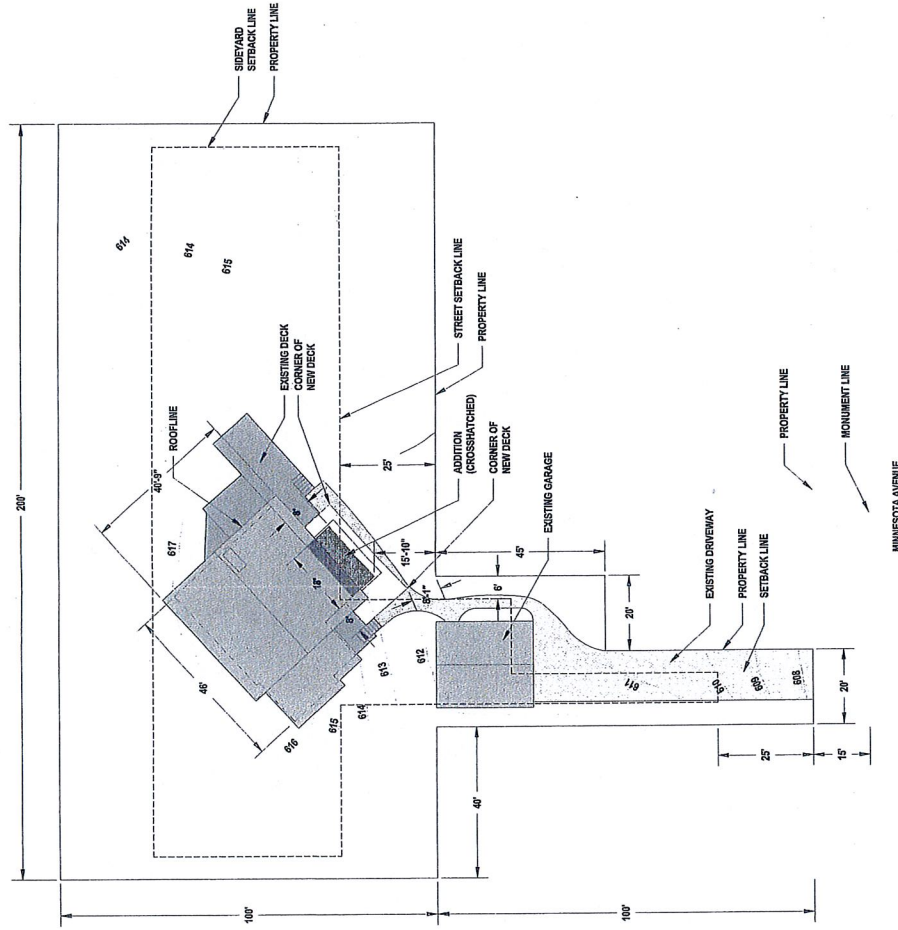
WITTMANER REIFF  
215 1/2 MARKET  
MINNEAPOLIS, MN 55404  
612 891 8821

GENERAL NOTES

1. SEE 100111  
2. SEE 100111

Project Name  
Project Number  
Scale  
Date  
Description  
Drawing Plan

A100

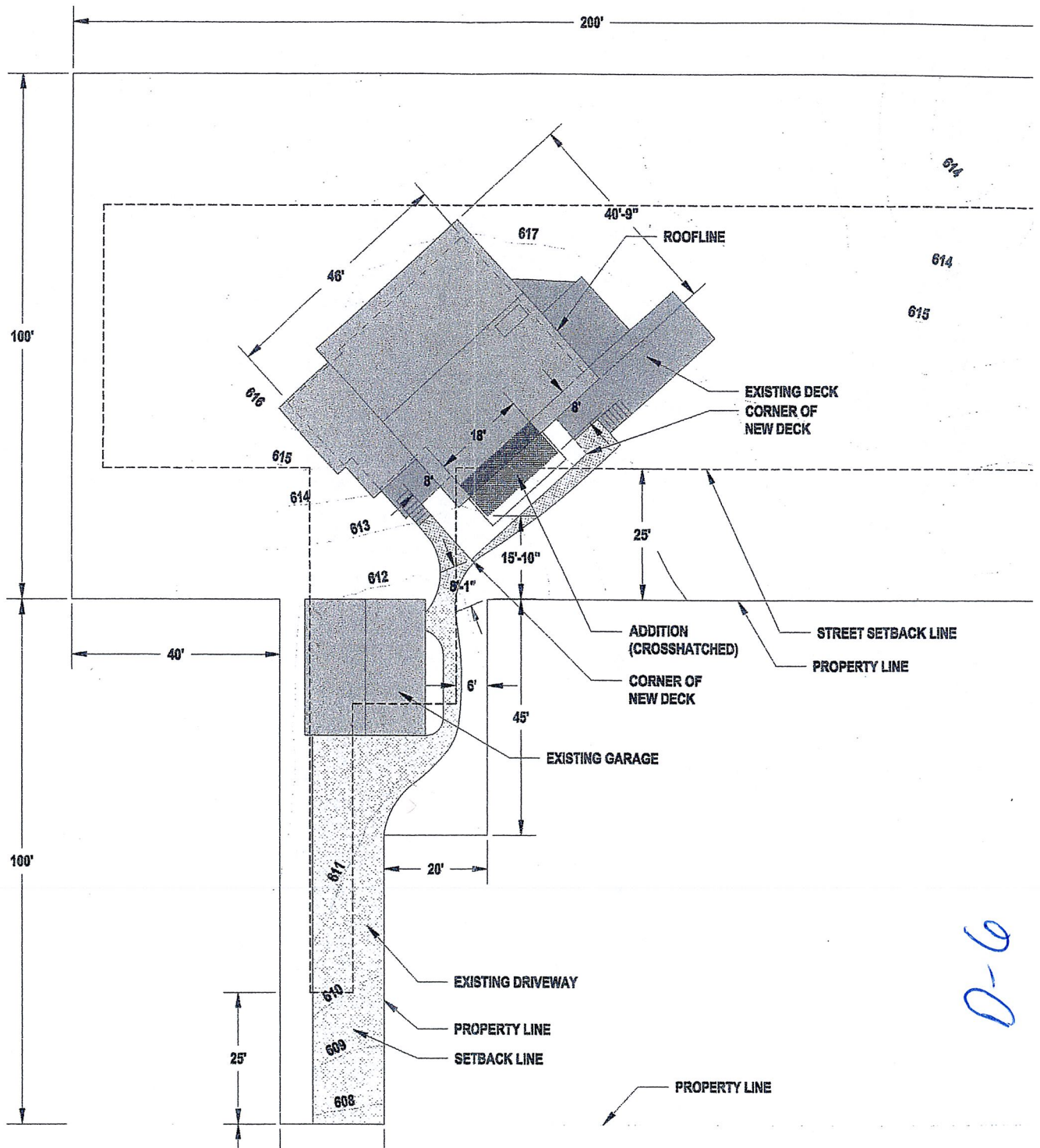


1 FRAMING AND FOUNDATION PLAN

D-5



PROPOSED-



0-6



SHEET NOTES

**WITRAK  
RESIDENCE**  
2223 SOUTH LAKE AVE  
DULUTH, MN 55802

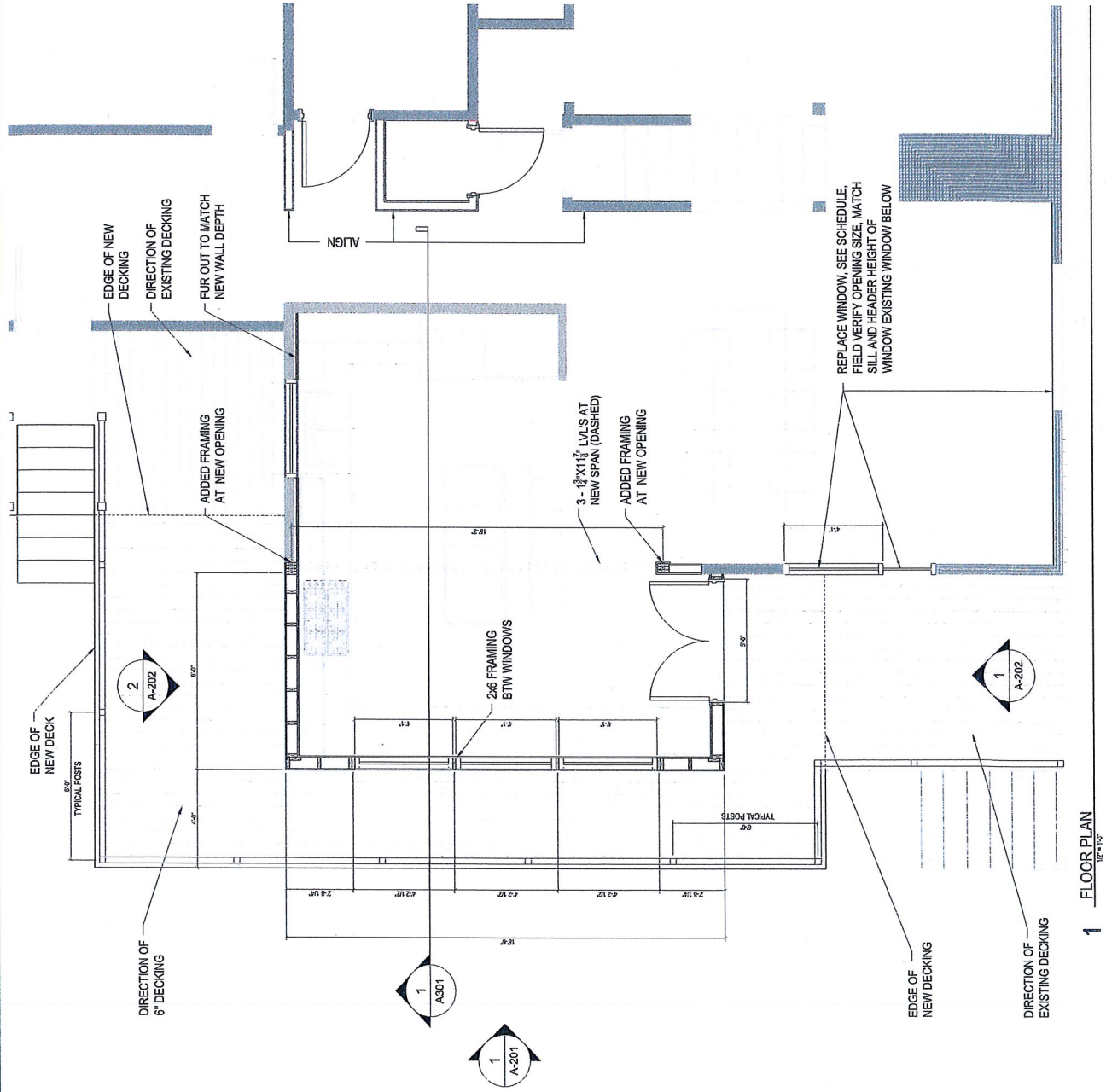
WITKAMBER REIFF  
335 SE MAIN ST  
SUITE 201  
MINNEAPOLIS, MN 55414  
763.591.1001

Date: 03/25/15  
Description: Issues for Permit

GENERAL NOTES

|                |              |
|----------------|--------------|
| Project Name   |              |
| Project Number |              |
| Scale          | 1/2" = 1'-0" |
| Description    | MANUFG. PLAN |

**A101**



**1 FLOOR PLAN**  
1/2" = 1'-0"

D-7



SHEET NOTES

WITTRAK  
RESIDENCE

2225 SOUTH LAKE AVE  
DULUTH, MN 55802

WITTKAMPER REIFF  
215 E MAIN ST  
MINNEAPOLIS, MN 55414  
612 591 8821

△ Data Description  
△ 08/25/15 Issue for Permit

Project Name

Project Number

Scale  
1/8" = 1'-0"

Description  
EXTERIOR ELEVATIONS

A202

GENERAL NOTES

CUSTOM SIZED  
CLERESTORY WNDW

NEW INSWING  
PATIO DOOR

VENT AT RANGE  
RE-USED SIDING  
OR NEW TO MATCH  
RE-USE AVAILABLE  
STEEL RAILINGS  
WHERE APPLICABLE

EXISTING STEPS  
TO REMAIN

1 EAST ELEVATION  
1/8" = 1'-0"

2 WEST ELEVATION  
1/8" = 1'-0"

D-8



SHEET NOTES

WITRAK  
RESIDENCE

2223 SOUTH LAKE AVE  
DULUTH, MN 55802

WITTKAMPER REIFF  
315 DE MAIN ST  
MINNEAPOLIS, MN 55414  
612 891 1821

Date: 03/27/16  
Description: Issues for Permit

GENERAL NOTES

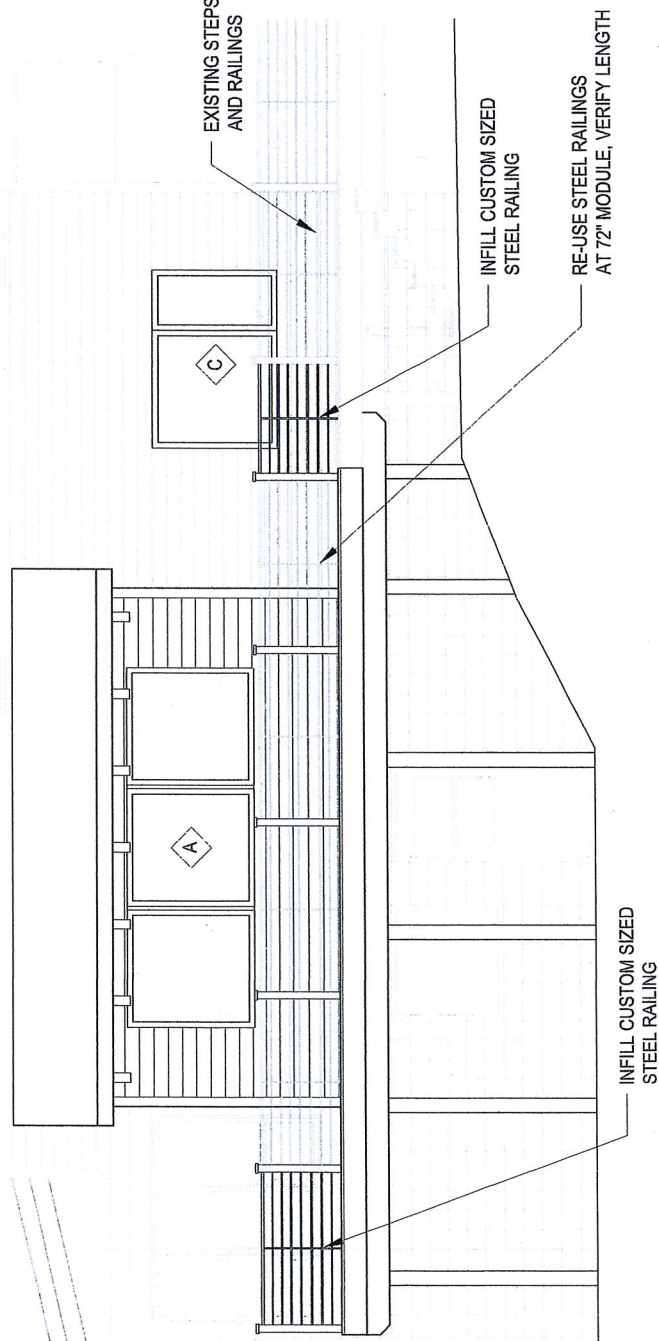
Project Name:

Project Number:

Scale:  
1/8" = 1'-0"

Description:  
SECTION @ KITCHEN

A201



1 SOUTH ELEVATION  
1/8" = 1'-0"

D-9





City of Duluth  
Planning and Construction Services

411 West First Street • Room 210 • Duluth, Minnesota • 55802-1194  
218-730-5240 • Fax: 218-730-5901 • www.duluthmn.gov/onestop/

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## Variance Application Supplemental Form

In order to submit a complete variance application, please explain how your request meets all of the below variance criteria. This is information that is required by the zoning code and that is necessary for Planning Commission review.

**List the UDC Section you are seeking relief from** (example: "50-14.5 – front yard setback in an R-1"):

50-14.5 : front yard setback in an R-1

**Is the applicant proposing to use the property in a reasonable manner?**

☒ Yes ☐ No

Please explain the applicant's use of the property, and how the relief requested is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant: The home is used as a single family residence. The proposed

kitchen expansion extends out to fill an existing deck / deck line. It adds

8 feet to our current kitchen with its open floor dimensions of 6.5 x 8 feet

The design of the house by the previous owner does not practically permit  
kitchen expansion in any other manner.

**Is the need for relief due to circumstances unique to this property?**

☒ Yes ☐ No

Please explain how these circumstances are due to exceptional narrowness, shallowness or shape of the applicant's property, or because of exceptional topographic or other conditions related to the property:

The odd shape of our lot and the placement of the house

upon it – ~~was~~ <sup>were</sup> created by the previous owner. To expand the existing  
kitchen to a modest-sized space to allow better functionality – thus  
requires a variance.

**Will granting this variance alter the essential character of the area?**

Yes ☒ No

Explain how this property fits the character of the neighboring area, and how the special circumstances or conditions applying to the building or land in question are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity:

Our expansion is a very modest one that largely uses an existing  
deck / deck line. In our opinion, it will not constitute a significant  
encroachment toward our neighbor's back yard property line.  
The addition's exterior architecture and color scheme  
will blend tastefully with the current exterior.

Revised July 14, 2014

0-10



Is this request consistent with the intent of the UDC and Comprehensive Plan? ☒ Yes ☐ No

Explain how the UDC and Comprehensive Plan support this request: \_\_\_\_\_

We are zoned R-1 and single family houses are  
permitted.

Explain how the special circumstances or conditions that create the need for relief were NOT directly or indirectly created by the action or inaction of the property owner or applicant:

Our currently very small kitchen and its relatively locked in  
location were created by a prior owner's building plans.

Will the variance impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety or public welfare of the inhabitants of the city? Yes ☒ No

Please explain: With our very modest expansion, there will be no  
impairment of adequate light or air flow to any adjacent property  
- or any deleterious effects regarding the other categories listed  
above.

Does the relief allow any type of sign that is not allowed in the zone district where the property is located? Yes ☒ No

Does your variance request need to meet any of the specific criteria in UDC Section 50-37.9, subsections D through M? Yes ☒ No

Discuss what subsections are applicable and how this request meets those: \_\_\_\_\_

To my reading of subsections D through M, none  
of them apply to the variance we are seeking.

Thanks much for your consideration.  
This kitchen addition will greatly  
facilitate the functionality of our house  
as we enter our retirement years.

Gratefully - Geoff and  
Gudrun Witrak  
2223 S. Lake Ave  
Duluth 55802